

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

STEPHANIE WOODS

PLAINTIFF

V.

NO. 3:16CV00044-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER AUTHORIZING AWARD OF FEES

Stephanie Woods filed this civil action on March 2, 2016, to appeal the Commissioner's denial of her application for Social Security disability benefits. This court entered a Judgment [17], dated October 20, 2016, that remanded the case to the Social Security Administration (the "Agency") for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). Before the court is Plaintiff's Motion for Attorney Fees [18] pursuant to §206(b)(1) of the Social Security Act, 42 U.S.C. § 406(b)(1), wherein she requests authorization of a fee award of "\$4,044.25 for work performed before the court.

Counsel for Plaintiff reports that after remand by this court, the Administrative Law Judge assigned to the case issued a favorable decision on December 8, 2017. A "status letter" was subsequently sent to Plaintiff's counsel by the Agency on September 1, 2018, stating that \$10,044.25 had been withheld from Plaintiff's past-due benefits in anticipation of a direct payment of authorized attorney fees. The letter further stated that counsel had previously been paid \$6,000 by the Agency for work performed before the Agency. As further support for the motion, counsel has provided a copy of a fee contract, wherein Plaintiff has agreed that her counsel has the right to seek as much as twenty-five percent of her past-due benefits for representing her in court.

In her response [19], the Acting Commissioner "declines to assert a position on the reasonableness of counsel's request because the Commissioner is not a true party in interest."

Fees under § 406 are limited to reasonableness and may be no more than twenty-five percent of the claimant's past-due benefits. *See* 42 U.S.C. § 406. Fees under § 406(b) satisfy a client's obligation to her counsel and, accordingly, are paid out of the plaintiff's social security benefits. *See Orner v. Shalala*, 30 F.3d 1307, 1309 (10th Cir.1994). A contingency fee agreement to pay twenty-five percent of any past-due benefits awarded may set the amount of the § 406(b) award so long as the amount is reasonable under the facts of the case. *See Gisbrecht v. Barnhart*, 535 U.S. 789, 807-08 (2002).¹ The combined fees under §§ 406(a) (administrative fees) and 406(b) (federal court fees) may not exceed twenty-five percent of past-due benefits. *Dawson v. Finch*, 425 F.2d 1192, 1195 (5th Cir. 1970).

Having fully considered the record and the applicable law, the court finds that given the contingent nature of the representation in this case; Plaintiff's consent to an award of fees; and the absence of any indication that counsel is not entitled to the requested award, the requested fee of \$4,044.25 is reasonable and should be authorized pursuant to § 406(b).

THEREFORE, IT IS ORDERED that Plaintiff's motion for attorney fees is **GRANTED**.

This, the 30th day of October, 2018.

/s/ Jane M. Virden
U.S. MAGISTRATE JUDGE

²*See also Jeter v. Astrue*, 622 F.3d 371, 379 & n. 9 (5th Cir. 2010).